

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5102 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

SANJAYKUMAR P SHAH

Versus

COMMISSIONER OF POLICE

Appearance:

MS.BANNA DATTA FOR MR ANIL S DAVE for Petitioner
MR.NEEGAM SHUKLA,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 7.6.1996 passed by the Police Commissioner, Ahmedabad City whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 7.6.1996 and since then the petitioner

is under detention and lodged at Bhavnagar Jail, Bhavnagar.

This Special Civil Application was filed on 15.7.1996 and Rule returnable on 19.8.1996 was issued. No reply or affidavit of the Detaining Authority has been filed. The grounds of detention disclosed that two criminal caases under Prohibition Act were registered against the petitioner. Besides this the Detaining Authority has taken into consideration the statements made by the witnesses with regard to the incidents dated 12.5.1996 and 5.5.1996. The petitioner has been detained as bootlegger.

The learned counsel for the petitioner has challenged the detention order on more than one ground but stress was laid on the point that the allegation and the material on the basis of which the detention order has been passed against the petitioner do not make out the case of public order and at the most it can be siad to be a case of the breach of law and order. Strong reliance has been placed on the Supreme Court decision in the case of M.J.Shaikh Vs. M.M.Mehta, reported in 1995(2) GLR Pg.1268.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 7.6.1996 passed by the Police Commissioner, Ahmedabad City is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
